

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

## MICHIELS INTERNATIONAL, INC.,

Plaintiff,

v.

WIPAIKE, INC.,

## Defendant.

CASE NO. C06-719JLR

## ORDER

This matter comes before the court on Defendant's Motion to Extend Time Re: Motion for Judgment on the Pleadings, Initial Disclosures and Joint Status Report (Dkt. # 9).

The parties are in a dispute regarding damage to an aircraft during a ferry flight from St. Paul, Minnesota to Kenmore, Washington. Wipaire, Inc. (“Wipaire”) filed a declaratory judgment action in United States District Court for the District of Minnesota on March 31, 2006. Michiels International, Inc. (“Michiels”) filed a lawsuit in King County Superior Court which Wipaire removed to this court. Michiels has moved to dismiss the Minnesota action and moved for Judgment on the Pleadings in its Washington action. In its pending motion, Wipaire asks the court to delay consideration of Michiel’s

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1 motion (and certain discovery obligations) until the Minnesota court rules on Michiel's  
2 Motion to Dismiss.

3 Wipaire relies on the "first to file" rule in support of its motion. Alltrade, Inc. v.  
4 Uniweld Prod. Inc., 946 F.2d 622, 623 (9th Cir. 1991). Michiels responds by noting the  
5 bad faith, anticipatory suit and forum shopping exceptions to the "first to file" rule.  
6 Weyerhaeuser Co., Inc. v. Keating Fibre Intern, Inc., 416 F. Supp. 2d 1041, 1047 (W.D.  
7 Wash. 2006).

8 The court is not being asked to decide the proper forum for the pending case.  
9 Rather, it is being asked to determine whether an extension of time is warranted under  
10 Federal Rule of Civil Procedure 6(b). Given the July 7, 2006 date set for argument on  
11 Michiel's Motion to Dismiss in the Minnesota action, the court finds that sufficient cause  
12 has been shown to GRANT Wipaire's Motion to Extend Time (Dkt. # 9).

13 The amended briefing schedule and dates for initial disclosures and joint status  
14 conference are as follows:

- 15 1. Defendant's Motion for Judgment on the Pleadings shall be noted for  
16 consideration on August 4, 2006. The deadlines for Plaintiff's Opposition  
17 to Motion for Judgment on the Pleadings and Defendant's Reply shall be  
18 calculated in accordance with CR 7 of the Local Rules for the Western  
19 District of Washington.
- 20 2. The deadline for the parties' FRCP 26(f) conference shall be August 4,  
21 2006.
- 22 3. The deadline for the parties' initial disclosures pursuant to FRCP 26(a)  
23 shall be August 11, 2006.

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1       4. The deadline for submitting the Combined Joint Status Report and  
2                  Discovery plan as required by FRCP 26(f), and Local Rule CR 16 shall be  
3                  August 18, 2006.  
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5                  Dated this 22nd day of June, 2006.

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9                  JAMES L. ROBART  
10                  United States District Judge  
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